

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Aquatic Resources
Honolulu, Hawaii 96813

March 10, 2011

Board of Land
and Natural Resources
Honolulu, Hawaii

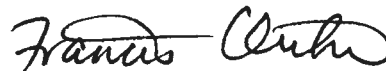
Request for Approval of Special Activity Permit 2011-14 for
Dr. David Ziemann, The Nature Conservancy Hawaii, to Conduct Alien Marine Algae
Removal and Native Marine Algae Replanting in Maunalua and Kaneohe Bay, Oahu

The applicant proposes to conduct activities relating to the removal of the regulated *Gracilaria* species, a group of three marine algae species, from Maunalua and Kaneohe Bays, Oahu. The *Gracilaria* genus includes an alien species, *Gracilaria salicornia*, that is being targeted for removal. The removal of this and other alien algae is expected to allow the re-growth of native algae and restore the areas to their once native state. The area where *Gracilaria salicornia* is found in Maunalua Bay is less than one acre.

RECOMMENDATION:

"That the Board authorize and approve, with stated conditions, this Special Activity Permit for Dr. David Ziemann, The Nature Conservancy Hawaii."

Respectfully submitted,



FRANCIS OISHI
Program Manager

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR.
Interim Chairperson

Department of Land & Natural Resources
DIVISION OF AQUATIC RESOURCES
1151 Punchbowl Street, Room 330
Honolulu, Hawaii 96813

Date Issued: March 1, 2011

Valid Not Longer Than
One Year From Date Issued

SPECIAL ACTIVITY PERMIT

The Department of Land and Natural Resources hereby grants permission for certain activities involving aquatic organisms belonging to the people of Hawaii, under Section 187A-6, Hawaii Revised Statutes, and other applicable laws.

The Permittees are

Name: Dr. David A. Ziemann Address: The Nature Conservancy Hawaii
Title: Researcher 923 Nu'uanu Avenue
Affiliation: The Nature Conservancy Hawaii Honolulu, HI 96817

This permit is issued, subject to the general and special conditions, to remove alien marine algae species, including the regulated but introduced alien *Gracilaria salicornia*, from the waters of Maunalua Bay, Oahu. This permit authorizes the taking, possessing, and disposition of the regulated marine algae listed below.

Common Name	Scientific Name	Number Specimen	Collecting Location
Alien algae and native algae	<i>Gracilaria salicornia</i> , <i>G. coronopifolia</i> , & <i>G. parvispora</i> ,	As needed	Maunalua Bay, Oahu Kaneohe Bay at Waikalua (Waikalua fishpond, Kokokahi), Heeia, Kahaluu (Keahiakaioi) and Hahione (Molii fishpond, Kualoa Beach park, Mokoli'i).

I. GENERAL CONDITIONS:

- A. This permit does not make the Department of Land and Natural Resources or the State of Hawaii liable in any way for any claim of personal injury or property damage to the permittee or assistants which may occur during any activity conducted under this permit; moreover, the permittee and all assistants agree to hold the State harmless against any and all claims of personal injury, death or property damage resulting from activities of the permittee or any assistant.
- B. This permit conveys a privilege to engage in only those activities under the jurisdiction of the Department of Land and Natural Resources. The permittee is responsible for complying with all applicable County, State, and Federal

requirements. The permit does not convey any privilege of access over or through private property.

- C. The permittee and each assistant are individually responsible and accountable for their actions while conducting activities authorized under this permit; additionally, the permittee is responsible and accountable for the actions of the permittee's assistants.
- D. This permit is not transferable or assignable. Any person whose name does not appear on this permit and is conducting any activity described herein is subject to prosecution for violation of State laws.
- E. The permittee may request changes to the permit. Any such request to make changes to the permit must be made in writing and received by the Department at least thirty days prior to the change. The addition of new assistants will require each individual to sign the Attachment on page 7 stating that they have read, understood, and agree to abide by all general and special permit conditions. No change may be implemented without written approval from the Department.
- F. The permittee may request to:
 - 1. Add assistants to the permit;
 - 2. Add another permittee or replace an existing permittee in the manner stated above; and
 - 3. Change the activities authorized under this permit.
- G. The permittee or their assistant(s) must have with them a copy of this permit while conducting activities authorized by this permit.
- H. This permit authorizes collection of organisms protected by Federal law only with prior appropriate Federal authority, which must be described on Page 1 of this permit (if applicable).
- I. This permit expires on the date indicated on Page 1. Within one month of the expiration date, the permittee must return this permit to the address listed on the upper left corner of page 1 with complete information on all activities authorized under this permit, on the attached Activity Report form.
- J. The permittee and assistants agree to provide access to data obtained under authority of this permit upon request of the Division of Aquatic Resources, and to provide to the Division a copy of each report, published for distribution, prepared with data obtained under this permit. The permittee agrees to provide the Division of Aquatic Resources access to organisms obtained and held under this permit for on-site inspection.
- K. A violation of any terms or condition of this permit or any violation of State law not covered by this permit may result in revocation of the permit and other penalties as

provided by law. In addition, the Department may consider any such violation as grounds for denying any future permit applications.

II. SPECIAL CONDITIONS

- A. This permit authorizes manual removal of the regulated alien algae *Gracilaria salicornia*, in excess of the bag limit, with reproductive nodes, and with the holdfast as provided in Chapter 13-93, Hawaii Administrative Rules. The *Gracilaria salicornia* is found in only a small portion (less than one acre) of Maunalua Bay and removal is limited to this area. A second site is also authorized in Kaneohe Bay at the sites listed on page 1. *Gracilaria* species, other than *G. salicornia*, may be replanted in cleared areas, if they existed there. All other non-*Gracilaria* but native limu species taken will be returned to the ocean.
- B. All non-native algae species collected shall not be returned to the ocean but disposed of only at Hawaiian Earth Products in Campbell Industrial Park and CTAHR Waimanalo Research Station, both on Oahu for sale or use as compost; provided that both the site operators and persons taking the alien algae should be informed not to allow the alien algae to return to the ocean and spread to aquatic areas where the alien algae are not currently found. Additional disposal sites must be approved in writing by the department.
- C. The permittee shall comply with Hawaii Department of Health water quality regulations.
- D. The permittee agrees to operate in accordance with the submitted mitigation plan to minimize negative impacts from the project, including the removal of sand, rock, and other substrate from the algae prior to disposal. Sensitive areas will be handled with particular care to minimize impacts to sea grass and live corals.
- E. The use of any chemical substance is expressly prohibited under this permit.
- F. The primary permittee and designated assistants are required to obtain permission before entering upon lands or waters not under the jurisdiction of the Department (see "C", General Conditions, page 2 of this permit).
- G. This permit does not by implication authorize the primary permittee or any designated assistant to engage in any other activity that is in violation of any other State, Federal or County law, regulation or ordinance.

WILLIAM J. AILA, JR., Interim Chairperson
Department of Land and Natural Resources

cc: (x) DOCARE
() Special Agent in Charge, USFWS, Honolulu
() DAR

SIGNATURES AND AGREEMENT

By my signature below, I acknowledge receipt and understanding of the general and special conditions of this Special Activity Permit. Further, I agree to abide by all of these conditions when conducting activities authorized by this permit.

PRINCIPAL PERMITTEES:

Dr. David Ziemann



DESIGNATED ASSISTANTS:

Signature: _____

Print Name: Dr. Eric Conklin

Signature: _____

Print Name: Dr. Dwayne E. Minton

Signature: _____

Print Name: Manuel Mejia

Signature: _____

Print Name: J. Kanekoa Kukea-Shultz

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

ACTIVITY REPORT

Results of all activities performed under authority of this permit must be reported on this form (or copies) within one month after the permit expires (see first page). Use as many sheets as you need. Submit the report to the Division of Aquatic Resources at 1151 Punchbowl Street, Room 330, Honolulu, HI 96813.

Date	Location	Common or Scientific Name	Quantity Collected*	Disposition of Specimens
------	----------	------------------------------	------------------------	-----------------------------

Permittee Signature

Dr. David Ziemann
Printed name

Signature

Date

*If salvaged (collected because the specimen was dead or injured already), please detail circumstances: condition (dead, or describe extent of injury), how or from whom the specimen was obtained.

ATTACHMENT FOR DESIGNATED ASSISTANTS ONLY

Primary Permittee: Dr. David Ziemann

I, being the primary permittee, hereby acknowledge the addition of the following designated assistants.

Dr. David Ziemann

Date

ADDITIONAL DESIGNATED ASSISTANTS

We, the undersigned, have read, understand, and agree to all conditions stipulated in the above Special Activity Permit.

Signature _____ Print Name: _____

Signature _____ Print Name: _____

Signature _____ Print Name: _____

Signature _____ Print Name: _____

Signature _____ Print Name: _____

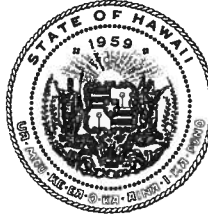
Signature _____ Print Name: _____

Signature _____ Print Name: _____

Signature _____ Print Name: _____

Signature _____ Print Name: _____

Signature _____ Print Name: _____



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF AQUATIC RESOURCES
1151 PUNCHBOWL STREET, ROOM 330
HONOLULU, HAWAII 96813

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
INTERIM DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

March 10, 2011

TO: Division of Aquatic Resources File

THROUGH: William J. Aila, Jr., Interim Chairperson

FROM: Robert Nishimoto, Environmental Program Manager
Division of Aquatic Resources

Handwritten signature: JN for RN

SUBJECT: Declaration of Exemption from the Preparation of an Environmental Assessment under the Authority of Chapter 343, HRS, and Chapter 11-200, HAR, for a Special Activity Permit to Dr. David Ziemann, The Nature Conservancy Hawaii.

The following permitted activities are found to be exempted from preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR:

Project Title: Special Activity Permit to Dr. David Ziemann, The Nature Conservancy Hawaii, for the taking of the regulated marine algae *Gracilaria* species, including the introduced *G. salicornia*.

Permit Number: SAP 2011-014.

Project Description: The permit, as described below, would authorize the taking of the marine algae belonging to the Genus *Gracilaria*, from March 2, 2011 through March 1, 2012. The taking of marine algae in the genus *Gracilaria* is regulated under section 13-93-2, Hawaii Administrative Rule. The permit would authorize the taking of *Gracilaria salicornia*, provided it is disposed of at two approved sites on-shore. The work site where the *Gracilaria salicornia* will be removed is in an area of less than one acre of State submerged lands in Maunalua Bay, Oahu.

The purpose of the take is to remove alien invasive marine algae species that is infesting the shallow inshore waters of Maunalua Bay. The presence of *Gracilaria salicornia*, and other alien algae species is overgrowing the bottom of the bay and preventing the establishment of a more native ecosystem. Any native marine algae taken during the removal process will be returned to the bay close to the site where it was taken. In addition, the native *Gracilaria* may be replanted in the cleared areas. All non-native algae removed from the bay will be disposed of at two on-shore sites for composting and used as fertilizer.

A second alien algae removal is authorized for certain sites in Kaneohe Bay. Similar to the protocols for Maunalua Bay, the *Gracilaria salicornia*, and other alien algae species will be manually removed from the ocean bottom and disposed of at the same two approved sites.

Precautions will be taken to not transport alien algae from Mauanlua Bay and Kaneohe Bay to other marine sites where they can become established.

The removal of the alien algae is expected to enable the return of the bays to a more native ecosystem.

Consulted Parties: Not applicable.

Exemption Determination: After reviewing HAR § 11-200-8, including the criteria used to determine significance under HAR § 11-200-12, DLNR has concluded that the activities under this permit would have minimal or no significant effect on the environment and that issuance of the permit is categorically exempt from the requirement to prepare an environmental assessment based on the following analysis:

1. All activities associated with this permit have been evaluated as a single action. Since this permit involves an activity that is precedent to a later planned activity, i.e., the removal and disposal of alien marine algae throughout the permit period, the categorical exemption determination here will treat all planned activities as a single action under § 11-200-7, HAR.

2. The Exemption Class for Scientific Research with no Serious or Major Environmental Disturbance Appears to Apply. HAR § 11-200-8(a)(1) exempts the class of actions which involve “repairs and maintenance of ... topographical features, involving negligible or no expansion or change of use beyond that previously existing.”

HAR § 11-200-8(a)(5) exempts the class of actions which involve “basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.” This exemption class has been interpreted to include removal of alien species, such as those being proposed.

In addition, the activities under consideration are exempt under Exemption Class #1, Exempt Items #7 which include “maintenance of existing parks, fishing areas,” Department of Land and Natural Resources, Exemption List for the Division of Fish and Game, approved January 19, 1976.

The proposed alien algae removal and replanting activities here appear to fall squarely under the exemption classes identified under HAR §§11-200-8(a)(1), 11-200-8(a)(5) and as described under the 1976 exemption list class items. As discussed below, no significant disturbance to any environmental resource is anticipated. Thus, so long as the below considerations are met, an exemption class should include the action now contemplated.

3. Cumulative Impacts of Actions in the Same Place and Impacts with Respect to the Potentially Particularly Sensitive Environment Will Not be Significant. Even where a categorical exemption appears to include a proposed action, the action cannot be declared exempt if “the cumulative impact of planned successive actions in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment.” HAR § 11-200-8(b) To gauge whether a significant impact or effect is probable, an exempting agency must consider every phase of a proposed action, any expected primary and secondary consequences, the long-term and short-term effects of the

action, the overall and cumulative effect of the action, and the sum effects of an action on the quality of the environment. HAR § 11-200-12.

Significant cumulative impacts are not anticipated as a result of this activity, and numerous safeguards further ensure that the potentially sensitive environment of the project area will not be significantly affected. All activities will be conducted in a manner that does not diminish marine resources, qualities, and ecological integrity, or have any indirect, secondary, cultural, or cumulative effects.

Since no significant cumulative impacts or significant impacts with respect to any particularly sensitive aspect of the project area are anticipated, the categorical exemptions identified above should remain applicable.

4. Overall Impacts will Probably have a Minimal or No Significant Effect on the Environment.

Any foreseeable impacts from the proposed activity will probably be minimal, and further mitigated by general and specific conditions attached to the permit. Specifically, all research activities covered by this permit will be carried out with strict safeguards for the natural, historic, and cultural resources, other applicable law and agency policies and standard operating procedures.

Conclusion. Upon consideration of the permit to be approved by the Chairperson, being delegated signatory authority on behalf of the Board of Land and Natural Resources at its meeting of October 24, 2008, the potential effects of the above listed project as provided by Chapter 343, HRS, and Chapter 11-200, HAR, have been determined to be of probable minimal or no significant effect on the environment and exempt from the preparation of an environmental assessment.

William J. Aila, Jr. Interim Chairperson,
Board of Land and Natural Resources

Date